IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY PETITION NO. 922 OF 2005

Om Surface Coating Products Pvt.Ltd.. ..Petitioner.

v/s.

M/s. Trishul News Inks Pvt. Ltd., ..Respondents.

Mr. R.M.Pandey for the Petitioner.

Mr. P.A.Sawant for the Respondents.

CORAM : S.C. DHARMADHIKARI,J.

DATED : 07TH APRIL, 2006

PC :

1. Heard Mr. Pandey appearing for the Petitioner and Mr. Sawant appearing for the respondents.

2. From a perusal of the petition and after hearing the learned counsel appearing for the parties, prima facie, there does not appear to be any dispute with regard to the receipt of the goods by the respondents. Thus, there appears to be no dispute about the obligation to make payment. The liability to make payment with interest on the amount of invoices is Rs. 2,72,332/- including interest as per Annexure "X" to the petition.

3. The company made part payments which have been set out at para 6 of the petition. The principal amount is

Rs. 1,68,931/-. The reply affidavit in clear terms states that the company is ready to clear the payment.

4. Mr. Sawant appearing for the respondents states that the respondents are willing to pay sum of Rs. 1,68,000/- but by instalments. He also invites my attention to the fact that a civil suit is also filed in the City Civil Court by the petitioners against the respondents.

5. In my view, interest of justice would be served if time is granted to the respondents to make payment of the principal amount. The same shall be paid as under :-

i. Sum of Rs. 25,000/- within a period of four weeks from today. The balance sum of Rs. 1,43,000/- would be paid in 20 instalments of Rs. 7,000/- each. The last instalment will cover the balance outstanding on that date.

ii. The learned counsel informs that the respondents would pay Rs. 7000/- per month, commencing from 15th May, 2005 and on 15th of each succeeding month till the amount of Rs. 1,68,000/- is paid.

iii. In case of default in making payment of Rs. 25,000/- or any subsequent instalments, the petition would stand admitted and advertised in Free Press Journal, Navshakti and Maharashtra Government Gazette.

iv. In case the amount is paid in 20 instalments, as stipulated above, it would be open for parties to apply for appropriate reliefs including disposal of the Civil Suit.

v. Undertakings are accepted. Liberty to apply for appropriate relief including appointing provisional liquidator in case of Admission of the Company Petition.

6. Order in terms of the above terms.

7. All the concerned to act on an ordinary copy of this order duly authenticated by the Company Registrar.

7.4.2006 (S.C.Dharmadhikari,J)

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